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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------|------------------|
| 10/720,319 | 11/24/2003 | Brigitte Chauvin | A30210-A 070338.0648 | 4298 |
| 27215 | 7590 | 02/23/2005 | EXAMINER | |
| MICHELIN NORTH AMERICA, INC. 515 MICHELIN ROAD P.O. BOX 2026 GREENVILLE, SC 29602 | | | | HARLAN, ROBERT D |
| ART UNIT | | PAPER NUMBER | | |
| | | 1713 | | |

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------------|-------------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/720,319 | CHAUVIN ET AL. |
| | Examiner Robert D. Harlan | Art Unit 1713 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5,7,9,11-16 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,5,7,9,11-16 and 22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. 08/1505,131.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

Art Unit: 1713

DETAILED ACTION

1. Claims 4, 6, 8, 10 and 17-21 are canceled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 1713

4. Claims 1-3, 5, 7, 9, 11-16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuhrman EP 0 545 883 A1 (hereinafter Fuhrman) in combination with Hatakeyama, U.S. Patent No. 5,391,635 (hereinafter "Hatakeyama") and Rowland et al., U.S. Patent No. 5,326,828 (hereinafter "Rowland"). Fuhrman discloses a rubber mixture that contains 100 parts per weight butyl rubber and up to parts per weight of an accelerator. The accelerator between 1.5 and 2.5 parts per wt. mercaptobenzothiazols, between 0.75 and 1.25 parts by weight of dibenzyl dithiocarbamate (ZBEC) and between 0.3 and 0.5 guanidine accelerator (e.g. diphenylguanidine). Fuhrman further teaches use of a softener, special wax and sulfur.

5. Fuhrman differs from the present invention in that the present invention is directed to a diene rubber. Hatakeyama and Rowland teaches, in analogous, diene rubber compositions with accelerators, softening agents, sulfur, etc. See Hatakeyama, col. 1, line 57 through col. 2, line 56; Rowland, col. 2, line 57 through col. 3, line 17. In view of Hatakeyama and Rowland, one having an ordinary skill in the art would be motivated to modify Fuhrman by using an diene rubber. Such modification would be obvious because one would expect that the use of rubber composition as taught by Fuhrman would be similarly useful and

Art Unit: 1713

applicable to the rubber compositions taught in Hatakeyama and Rowland.

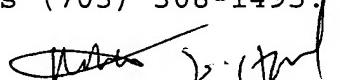
6. Hatakeyama and Rowland each disclose diene rubber compositions capable of being vulcanized in a cold vulcanization process at a temperature between 95°C–140°C. Furthermore, Fuhrman does not teach away the use of diene rubber. Fuhrman states, "In many cases it is thereby already possible in rubber mixtures and thus in connection with certain types of rubber, for instance with natural rubber, to make way for completely harmless accelerator systems." This statement provides motivation to one of ordinary skill in the art that natural rubber and butyl rubber may both be used interchangeably. The data demonstrating unexpected results of using ZBEC over TMTD are insufficient to over the obviousness rejection. Fuhrman teaches the advantages of using a combination of accelerators including ZBEC. Thus, the results are not unexpected.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Harlan whose telephone number is (703) 306-5926. The examiner can normally be reached on Mon-Fri, 10 AM - 8 PM.

Art Unit: 1713

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David W. Wu can be reached on (703) 308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9559 for regular communications and (703) 872-9559 for After Final communications.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.



Robert D. Harlan
Primary Examiner
Art Unit 1713

rdh

February 20, 2005